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March 09, 2011

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

BRAD A. MOKRI, SBN: 208213 JENNIFER N. HUPE, SBN: 256009

LAW OFFICES OF MOKRI & ASSOCIATES

1851 E. First Street, Suite 900 Santa Ana, California 92705 Telephone No.: (714) 619-9395 Facsimile No.: (714)619-9396

RIGOBERTO CALDERON

RIGOBERTO CALDERON

vs.

HERITAGE PACIFIC FINANCIAL, LLC

Texas Limited Liability Company,

Plaintiff,

Defendant

D/B/A HERITAGE PACIFIC FINANCIAL, a

Attorney for HERITAGE PACIFIC FINANCIAL LLC dba HERITAGE PACIFIC FINANCIAL

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In re:

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UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF CALIFORNIA

Chapter 7

Bankruptcy Case No.: 10-92794-E-7 Adversary Case No: 10-09077-E

DECLARATION OF BEN GANTER IN SUPPORT OF PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

I, Ben Ganter, declare as follows:

- 1. I am the Director of Client Relations for Heritage Pacific Financial, LLC d/b/a Heritage Pacific Financial. I have personal knowledge of the facts stated herein. I am familiar with Heritage Pacific Financial's regular course of business and its operations within the secondary mortgage market. I participate in the purchase of mortgage notes on the secondary market, on behalf of Plaintiff Heritage Pacific Financial.
 - 2. When purchasing loans on the secondary market, Heritage Pacific Financial

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27 28 relies only on the information provided on the loan application (otherwise referred to as the 1003 Application or Uniform Residential Loan Application).

- 3. When seeking to purchase a note on the secondary market, Heritage relies on the stated income of the borrower, the borrower's assets and debts, occupation, and other real property as set forth on the 1003 Application. The borrower signs an "Acknowledgement and Agreement" representing to the lender, its agents, brokers, processors, attorneys, insurers, servicers, successors and assign that the information provided in this application is true and correct. See Exhibit A in support of Plaintiff's Motion for Default Judgment.
- 4. By signing the "Acknowledgement and Agreement" the borrower intends to make these representations to any subsequent note holders, like Heritage Pacific Financial. This acknowledge and agreement is an essential clause to which Heritage Pacific Financial relies on in purchasing the notes from the Lender. Absent this clause, Heritage Pacific Financial would have no incentive to purchase these notes, and the risk of loss would gravely outweigh the cost.
- 5. By relying on the representations contained within the 1003 Application, such as income, assets, occupation and other properties. Heritage Pacific Financial assumes that even if the borrower defaults, Heritage Pacific Financial will still be able to collect on the note considering the amount of income the borrower has represented to make annually. For example, Defendant made the following representations, to which Heritage Pacific Financial relied on when purchasing the subject notes:
- a. Rigoberto Calderon represented on the 1003 Application (Exhibit A) that he was employed by Signature Foods and earned \$4,000.00 per month.
- 6. Had Heritage Pacific Financial known that the actual income of the borrower was falsely stated on the 1003 Application, Heritage Pacific Financial would not have purchased that note.
- 7. As Director of Client Relations, I am also familiar with the terms, payments received, and defaults associated with these Defendants and have personal knowledge of the following facts:
 - a. Rigoberto Calderon made zero (0) payments on the note and has an unpaid

- 8. Attached as Exhibit "A" is a true and correct copy of Defendant's Uniform Residential Loan Application, otherwise known as a 1003 Form, executed by Defendant, the original of which is maintained in the records of Heritage Pacific Financial in the ordinary course of its business.
- 9. Attached as Exhibit "B" is a true and correct copy of the Promissory Note, executed by Defendant, the original of which is maintained in the records of Heritage Pacific Financial in the ordinary course of its business.
- 10. On or about December 13, 2010, Heritage Pacific Financial sent a Request for Verification of Employment to Seneca Foods at 2801 Finch Road, Modesto California 95354. On or about December 13, 2010, Seneca Foods completed and returned to Heritage Pacific Financial the Request for Verification of Employment form. A true and correct copy of the Request for Verification of Employment is attached as Exhibit "C".
- 11. On or about August 16, 2005, Defendant obtained a loan in the amount of \$48,800.00 with 9.500% interest for the purchase of certain real property. (Exhibit B). Defendant acquired a fifteen (15) year loan but failed to make a single payment. The Note was subsequently assigned to Plaintiff as indicated in the Allonge to Note. (Exhibit B). Plaintiff has been damaged in the sum of \$48,800.00 which is the unpaid balance of the Note and the amount of the assignment transaction as set forth in the Allonge to Note.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

. Executed on DC . Y 10 Hat Plano, Texas.

Heritage Pacific Financial, LLC d/b/a Heritage Pacific Financial

By:

BEN GANTER

Director of Client Relations and Custodian of Records for Pacific Financial LLC

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Frecom Maio Form 85 01/04

Parele Mae Form 1003 01/04

wer's Certification & Authorization

Certification

LOAN NO.: # 205

The undersigned certify the following:

 I/We have applied for a mortgage loan from AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENNIUM FUNDAGAGROUP applying for the loan, live completed a loan application containing various information on the purpose of the loan, the amount and source of the down payment, employment and income information, and assets and liabilities. I/We certify that all of the information is true and complete. I/We made no misrepresentations in the loan application or other documents, nor did I/we omit any pertinent information.

2. I/We understand and agree that AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENNIUS FINE PROPRIES the montgage loan review process to a full documentation program. This may include verifying the information provided on the application with the

employer and/or the financial institution.

3. I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements when applying for this mortgage, as applicable under the provisions of Title 18. United States Code, Section 1014.

Authorization to Release Information

To Whom It May Concern:

1. I/We have applied for a mortgage loan from AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENWIMMINIADRICUMO application process, Denderk AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENNIUM FUNDING GROUP may verify information contained in my/our loan application and in other documents required in connection with the loan, either before the loan is closed or as part of its quality control program.

2. I/We authorize you to provide to AMERICAN MORTGAGE EXPRESS FINANCIAL DEMONSTERMONER/NOMISTERCOPA/NOMI (lander) may sell my/our AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENNIUM FUNDING GROUP mortgage, any and all information and documentation that they request. Such information includes, but is not limited to, employment history and income; bank, money market, and similar account balances; credit history; and copies of income tex returns.

3. AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENNIUM FUNDING GROUP (lender) or any investor that purchases the mortgage may address this authorization to any party named in the loan application or disclosed by any consumer credit reporting agency or similar source.

4. A copy of this authorization may be accepted as an original.

5. Your prompt reply to American mortgage express financial DBA MILLENNIUM FUNDING GROUP

(lender) or the investor that purchased the mortgage is appreciated.

NOTICE TO BORROWERS: This is notice to you as required by the Right to Financial Privacy Act of 1978 that HUD/FHA has a right of access to financial records held by financial institutions in connection with the consideration or administration of assistance to you. Financial records involving your transaction will be available to HUD/FHA without further notice or authorization but will not be disclosed or released by this Institution to another Government Agancy or Department without your consent except as required or permitted by law.

Rigaberto Calderon	8:17-0	5	
RIGOBERTO CALDERON	(Date)		
•			
	(Date)		
		•	3/05
VMP-50 (0503)			LENDER SUPPORT BYSTEKS BIC. GEHOLLGEN JOURS

MIN 100147300050712062 MERS Phone: 1-888-679-6

LOAN NO.: 950 1206

THIS LOAN IS PAYABLE IN FULL AT MATURITY. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. LENDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME, YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER, WHICH MAY BE THE LENDER YOU HAVE THIS LOAN WITH, WILLING TO LEND YOU THE MONEY. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF YOU OBTAIN REFINANCING FROM THE SAME LENDER.

AUGUST 16, 2005 Date

MODESTO City

CALIFORNIA State

1628 WOODWORTH AVENUE, MODESTO, CA 95351-

Property Address

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$

48.800.00

(this amount will be called

"principal"), plus interest, to the order of the Lender. The Lender is

AMERICAN MORTGAGE EXPRESS FINANCIAL DEA MILLENNIUM FUNDING GROUP

. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note will be called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. 9.500 I will pay interest at a yearly rate of

3. PAYMENTS

I will pay principal and interest by making payments each month of U.S. \$

OCTOBER, 2005

I will make my payments on the

day of each month beginning on

. I will make these payments every month until I have paid all of the principal and interest and any other charges, described below, that I may owe under this Note. If, on I still owe amounts under this Note, I will pay all those amounts, in full, on that date. or at a different place if required by the Note Holder.

I will make my monthly payments at AMERICAN MORTGAGE EXPRESS FINANCIAL

P.O. BOX 591726, SAN DIEGO, CA 92150-1726

4. BORROWER'S FAILURE TO PAY AS REQUIRED

If the Note Holder has not received the full amount of any of my monthly payments by the end of calendar days after the date it is due, I will promptly pay a late charge to the Note Holder. The amount of the charge will be % of my overdue payment, but not less than U.S. \$. I will pay this late charge only once on any late payment.

U.S. \$

If I do not pay the full amount of each monthly payment on time, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date I will be in default. That date must be at least 10 days after the date on

which the notice is mailed to me or, if it is not mailed, 10 days after the date on which it is delivered to me.

If I do not pay the overdue amount by the date stated in the notice described in (B) above, I will be in default. If I am in default, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described interest that I owe on that amount. above, the Note Holder will still have the right to do so if I am in default at a later time.

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back for all of its costs and expenses to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

In addition to the protections given to the Note Holder under this Note, a Deed of Trust, dated the same day as this Note, 5. THIS NOTE SECURED BY A DEED OF TRUST protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Deed of Trust describes how and under what conditions I may be required to make immediate payment in full of all amounts that I owe under this Note.

Some of those conditions are described as follows:

CALIFORNIA - SECOND MORTGAGE - 6/84 - FNMA/FHLMC UNIFORM INSTRUMENT

Initials:_R Form 3005 - Modified

rty or any interest in it is Transfer of the Property or . . . eneficial Interest in Borrower. If all or any part of the . sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Deed of Trust.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Deed of Trust. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Deed of Trust without further notice or demand on Borrower.

6. BORROWER'S PAYMENTS BEFORE THEY ARE DUE

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in a letter that I am doing so. A prepayment of all of the unpaid principal is known as a "full prepayment." A prepayment of only part of the unpaid principal is known as a "partial prepayment."

I may make a full prepayment or a partial prepayment without paying any penalty. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no delays in the due dates or changes in the amounts of my monthly payments unless the Note Holder agrees in writing to those delays or changes. I may make a full prepayment at any time. If I choose to make a partial prepayment, the Note Holder may require me to make the prepayment on the same day that one of my monthly payments is due. The Note Holder may also require that the amount of my partial prepayment be equal to the amount of principal that would have been part of my next one or more monthly payments.

7. BORROWER'S WAIVERS

I waive my rights to require the Note Holder to do certain things. Those things are: (A) to demand payment of amounts due (known as "presentment"); (B) to give notice that amounts due have not been paid (known as "notice of dishonor"); (C) to obtain an official certification of nonpayment (known as a "protest"). Anyone else who agrees to keep the promises made in this Note, or who agrees to make payments to the Note Holder if I fail to keep my promises under this Note, or who signs this Note to transfer it to someone else also waives these rights. These persons are known as "guarantors, sureties and endorsers."

8. GIVING OF NOTICES Any notice that must be given to me under this Note will be given by delivering it or by mailing it by certified mail addressed to me at the Property Address above. A notice will be delivered or mailed to me at a different address if I give the

Note Holder a notice of my different address. Any notice that must be given to the Note Holder under this Note will be given by mailing it by certified mail to the Note Holder at the address stated in Section 3 above. A notice will be mailed to the Note Holder at a different address if I am given a notice of that different address.

9. RESPONSIBILITY OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each of us is fully and personally obligated to pay the full amount owed and to keep all of the promises made in this Note. Any guarantor, surety, or endorser of this Note (as described in Section 7 above) is also obligated to do these things. The Note Holder may enforce its rights under this Note against each of us individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note. Any person who takes over my rights or obligations under this Note will have all of my rights and must keep all of my promises made in this Note. Any person who takes over the rights or obligations of a guarantor, surety, or endorser of this Note (as described in Section 7 above) is also obligated to keep all of the promises made in this Note.

NOTICE TO BORROWER Do not sign this Note if it contains blank spaces. All spaces should be completed before you sign.

REONANDO CALDERON	(Seal) . -Bottower	(Seal) -Borrower
	(Scal) . -Borrower	(Seal) -Borrower
	(Seal) -Borrower	(Scal)
	(Seal) -Borrower	+Battowa
		(Sign Original Only

Allonge To Note

Date: AUGUST 16, 2005

Borrower: RIGOBERTO CALDERON

Property Address: 1628 WOODWORTH AVENUE, MODESTO, CA 95351

Amount of Transaction \$ 48,800.00

Without Recourse, Pay to the order of:

RESIDENTIAL FUNDING CORPORATION

Dan King

President

Millennium Funding Group

American Mortgage Express Financial dba Millennium Funding Group

PAY TO THE OHIDER OF U.S. Bank National Association as Trustee
WITHOUT RECOURSE
Residential Funding Corporation

Faber, Vace President

Without Recourse, Pay to the order of Coltate Capital L.L.C.

Steven Green, Emited Signing Officer

U.S. Bank National Association as Trustee, c/o Residential Funding Company, LLC fka Residential Funding Corporation, Attorney in Fact

Without Recourse, Pay to the order of

HERITAGE PACIFIC FINANCIAL, LLC dova HERITAGE PACIFIC FINANCIAL

Greg S. Conrady, Manager Coltate Capital, L.L.C

WHEN COMPLETED FAX TO VERIFICATION DEPT. @ 972-422-2586



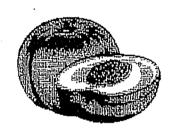
REQUEST FOR VERIFICATION OF EMPLOYMENT

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Modesto, (CA 95354			l Dha	hmm- R'	フフェンフフ・トに	פרי	Enu: 077 #	77 7000
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Rosalinda Co	irtez		VE	RIFICATION AGE	NT				230139
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2801 Finch Rd Modesto, Ca 95354







THIS FAX CONTAINS CONFIDENTIAL INFORMATION

TO: Rosalinda

PAGES 2

FROM: Laurel Cockrell

PHONE: 209-572-5710

209-572-5231

DATE: 12/13/10

eFiling Confirmation Page I of I

Your document(s) have been received. Please refer to the list below for the confirmation number and submission date of each file submitted.

FileName	ConfirmationNumber	CaseNumber	SubmissionDate
CALDERON_NOTICE MOTI.pdf	BMOKRI634298290528497501	2010-92794	1/5/2011 12:57:32 PM
CALDERON_MEMO P&A.pdf	BMOKR1634298290528497502	2010-92794	1/5/2011 12:57:32 PM
CALDERON_DECL MARK 5.pdf	BMOKR1634298290528653753	2010-92794	1/5/2011 12:57:32 PM
CALDERON_DECL GANTER.pdf	BMOKRI634298290528653754	2010-92794	1/5/2011 12:57:32 PM
CALDERON_EXH A.pdf	BMOKR1634298290528653755	2010-92794	1/5/2011 12:57:32 PM
CALDERON_EXH B.pdf	BMOKRI634298290528653756	2010-92794	1/5/2011 12:57:32 PM
CALDERON_EXH C.pdf	BMOKR1634298290528653757	2010-92794	1/5/2011 12:57:32 PM
CALDERON_COS RE DEFAULT JUDGMENT.pdf	BMOKRI634298290528653758	2010-92794	1/5/2011 12:57:32 PM
CALDERON_PROP JUDGMT.pdf	BMOKRI634298290528653759	2010-92794	1/5/2011 12:57:32 PM

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